

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

BOBBY YOUNG,

Petitioner,

vs.

Tim Brunsman, WARDEN,
Chillicothe Correctional Institute,

Respondent.

: Case Number: 1:03cv902-SJD

: District Judge Susan J. Dlott

ORDER

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Timothy S. Black filed on May 8, 2006 (Doc. 38), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired May 26, 2006, hereby ADOPTS said Report and Recommendations.

Accordingly, Petitioner's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (Doc. 1), as amended (Doc. 28), is DENIED with prejudice.

A Certificate of Appealability should not issue with respect to the claims alleged in the original Petition and Grounds One, Three, Four, Five and Six of the Amended Petition, which this Court has concluded are barred from review on waiver grounds, because under the first prong of the two-part standard enunciated in *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000), "jurists of reason" would not find it debatable whether this Court is correct in its procedural rulings. A Certificate of Appealability also should not issue with respect to the claims alleged in Grounds Two, Seven and Eight of the Amended Petition, which have been addressed on the

merits herein, because Petitioner has failed to make a substantial showing of the denial of a constitutional right based on such claims. See 28 U.S.C. § 2253 (c); Fed.R. App. P. 22(b).

With respect to any application by Petitioner to proceed on appeal *in forma pauperis*, the Court CERTIFIES pursuant to 28 U.S.C. § 1915 (a)(3) that an appeal of any Order adopting this Report and Recommendations will not be taken in “good faith,” therefore DENYING Petitioner leave to appeal *in forma pauperis* upon a showing of financial necessity. See Fed. R. App. P. 24 (a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997).

IT IS SO ORDERED.

s/Susan J. Dlott
Susan J. Dlott
United States District Judge